



Paul Boyer, Mayor
Tina Hernandez, Mayor Pro Tem
Gregorio Gomez, Council Member
Ruben Macareno, Council Member
Danny Valdovinos, Council Member

**Farmersville City Council
Regular Meeting**

Monday, March 14, 2022 6:00 PM
Meeting held in Civic Center Council Chambers
– 909 W. Visalia Road Farmersville, California

Pursuant to AB 361, the City of Farmersville will be allowing the public, staff, and City Council to attend this meeting via Zoom.

Please dial 1-669-900-6833

Meeting ID: 86761310127

Password: 541775

- 1. Call to Order:**
- 2. Roll Call:**
- 3. Invocation:**
- 4. Pledge of Allegiance:**
- 5. Public Comment:**

Provides an opportunity for members of the public to address the City Council on items of interest to the public within the Council's jurisdiction and which are not already on the agenda this evening. It is the policy of the Council not to answer questions impromptu. Concerns or complaints will be referred to the City Manager's office. Speakers should limit their comments to not more than two (2) minutes. No more than twenty (20) total minutes will be allowed for Public Comment. For items which are on the agenda this evening, members of the public will be provided an opportunity to address the council as each item is brought up for discussion. Comments are to be addressed to the Council as a body and not to any individual Council Member.

6. Presentations:

- A. Update from GRID Alternatives – Hector Uriarte**

7. Consent Agenda:

Under a CONSENT AGENDA category, a recommended course of action for each item is made. Any Council Member or Member of the Public may remove any item from the CONSENT AGENDA in order to discuss and/or change the recommended course of action, and the Council can approve the remainder of the CONSENT AGENDA.

- A. Minutes of Regular City Council Meeting of February 28, 2022.**

Recommend approval of minutes.

Documents: Draft Action Minutes of February 28, 2022

- B. Waive the Second Reading and adopt Ordinance 514 approving a zone change for the site from CC (Central Commercial) to CG (General Commercial) - Lakhani**

Recommend that the City Council waive the second reading and adopt Ordinance 514 approving a zone change for the site from CC (Central Commercial) to CG (General Commercial) – Lakhani.

Documents: Ordinance 514

8. General Business

- A. Ventura Ave Crosswalk Study at Visalia Road**

Recommend that the City Council review the staff report discussing the potential crosswalk at Ventura Avenue and Visalia Rd and explore the factors to consider when installing striped crosswalks including pedestrian benefits, risk management, improvement expenses and potential traffic impacts.

Documents: Map of Ventura Avenue and Visalia Road

- B. Project Development Agreement with Johnson Controls in the amount of \$40,000 to Develop a Solar Energy Generation Project and Provide Grant Writing Services**

Recommend that the City Council approve the Project Development Agreement with Johnson Controls in the amount of \$40,000 subject to City Attorney review.

Documents: Project Development Agreement

- C. AB 361 and Teleconferenced Meetings**

Recommend that the City Council provide findings and direction regarding AB 361 related to teleconference meetings.

Documents: AB 361

9. Council Reports

- A. City Council Updates and Committee Reports**

10. Staff Communications:

11. Future Agenda Items

1. Review State and City regulations regarding street vendors

12. Adjournment:

NOTICE TO PUBLIC

The City of Farmersville Civic Center and City Council Chambers comply with the provisions of the Americans with Disabilities Act (ADA). Anyone needing special assistance please contact City Hall at (559) 747-0458 please allow at least six (6) hours prior to the meeting so that staff may make arrangements to accommodate you.

Materials related to an item on this agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City's offices during normal business hours.

Drafted by: J. Gomez

Strong Roots.....Growing Possibilities



**Farmersville City Council
Regular Meeting**

Paul Boyer, Mayor
Tina Hernandez, Mayor Pro Tem
Gregorio Gomez, Council Member
Ruben Macareno, Council Member
Danny Valdovinos, Council Member

Monday, February 28, 2022 6:00 PM
Meeting held in Civic Center Council Chambers
– 909 W. Visalia Road Farmersville, California

Pursuant to AB 361, the City of Farmersville will be allowing the public, staff, and City Council to attend this meeting via Zoom.

Please dial 1-669-900-6833

Meeting ID: 87928294910

Password: 638817

1. **Call to Order: 6:01pm**
2. **Roll Call:**

Attendee Name	Title	Status	Arrived
Paul Boyer	Mayor	Present	6:00 pm
Tina Hernandez	Mayor Pro Tem	Present	6:00 pm
Greg Gomez	Council Member	Present	6:00 pm
Danny Valdovinos	Council Member	Present	6:00 pm
Ruben Macareno	Council Member	Present	6:00 pm

3. **Invocation:** *Mayor Paul Boyer*
4. **Pledge of Allegiance:** *Council Member Greg Gomez*
5. **Public Comment:**

Maria Fuentes owner of Farmersville Florist voiced concerns regarding Street Vendors for the Holidays. Ms. Fuentes would like the Council to add the discussion of Street Vendors to a future agenda item.

Provides an opportunity for members of the public to address the City Council on items of interest to the public within the Council's jurisdiction and which are not already on the agenda this evening. It is the policy of the Council not to answer questions impromptu. Concerns or complaints will be referred to the City Manager's office. Speakers should limit their comments to not more than two (2) minutes. No more than twenty (20) total minutes will be allowed for Public Comment. For items which are on the agenda this evening, members of the public will be provided an opportunity to address the council as each item is brought up for discussion. Comments are to be addressed to the Council as a body and not to any individual Council Member.

6. Presentations:

A. Financial Audit for FY 2020-2021

Anthony Gonzales with Price Paige & Company presented the June 30, 2021, Financial Statement & Single-Audit report.

Steve Huntley Director of Finance and Administration, and Anthony Gonzalez were available for questions or concerns from Council Members.

7. Consent Agenda:

Under a CONSENT AGENDA category, a recommended course of action for each item is made. Any Council Member or Member of the Public may remove any item from the CONSENT AGENDA in order to discuss and/or change the recommended course of action, and the Council can approve the remainder of the CONSENT AGENDA.

A. Minutes of Regular City Council Meeting of February 14, 2022.

Recommend approval of minutes.

Documents: Draft Action Minutes of February 14, 2022

B. Finance Update for January 2022: Warrant Register and Investment Summary

Recommend that the City Council:

1. Approve the Warrant Register as presented for the period. This reporting period represents warrants issued for the current Fiscal Year (2021/2022); and
2. Accept the Investment Summary as presented for the period. This reporting period represents investment summary for the previous month.

Documents: January 2022 Warrant Register
Investment Summary January 2022

C. Approve Flyover Request for the Annual Memorial Day Parade

Recommend that the City Council authorize the Mayor to sign the attached Request for Military Aerial Support application.

Documents: Request for Military Aerial Support Application

Motion to approve Consent Calendar.

RESULT:	APPROVED (UNANIMOUS)
MOVER:	Tina Hernandez, Mayor Pro Tem
SECONDER:	Danny Valdovinos, Council Member
AYES:	Boyer, Hernandez, Gomez, Valdovinos, Macareno
ABSENT:	none

8. General Business:

A. Grade Separation Corridor Feasibility Study

Recommend that the City Council review the Feasibility Study for the future potential development of a valuable new north/south corridor in the eastern section of the city limits, which includes a grade separation crossing over the existing San Joaquin Valley Railroad (SJVR).

Documents: Conceptual Layout Site Plan
Grade Separation Corridor Feasibility Report

Kevin Gross City Engineer provided a PowerPoint presentation reviewing the Grade Separation Corridor Plan. Mr. Gross briefly discussed the potential planning and funding for this future project. He also highlighted the connection between Visalia Road and Walnut Road.

The Council discussed the proposed changes for the potential development of a north/south corridor on the east side of Farmersville.

Council Member Greg Gomez and Mayor Pro Tem Tina Hernandez would like a more immediate solution regarding the traffic by Farmersville High School prior to the start of the grade separation project.

Council Member Danny Valdovinos would like additional studies to be done to address any potential issues or concerns with this location. Staff will review in further detail as the project moves forward in a few years.

The City Engineer will also present the Plan to TCAG for their reference.

B. Public Hearing: General Plan Amendment/Zone Change 2021-01 (Lakhani)

Recommend that the City Council conduct a public hearing and vote to approve the request by:

1. Adopting Resolution 2022-005 approving a General Plan Amendment (from "Central Commercial" to "General Commercial") and adopting a Notice of Exemption as the environmental finding for the request; and

2. Introducing Ordinance 514 approving a zone change for the site from CC (Central Commercial) to CG (General Commercial).

Documents: Resolution 2022-005
Ordinance 514

City Planner Karl Schoettler provided background information for a zone change at the west side of Farmersville Blvd and north of Visalia Road. He also provided maps for the Council Members of the zone change.

Mayor Boyer opened Public Hearing at 7:10 pm. With no public comments provided; Mayor Boyer closed the Public Hearing at 7:10 pm.

Motion to approve as presented Resolution 2022-005 General Plan amendment and zone change.

RESULT:	APPROVED (UNANIMOUS)
MOVER:	Greg Gomez, Council Member
SECONDER:	Danny Valdovinos, Council Member
AYES:	Boyer, Hernandez, Gomez, Valdovinos, Macareno
ABSENT:	none

Motion to introduce and waive the first reading of Ordinance 514 approving zone change.

RESULT:	APPROVED (UNANIMOUS)
MOVER:	Greg Gomez, Council Member
SECONDER:	Tina Hernandez, Mayor Pro Tem
AYES:	Boyer, Hernandez, Gomez, Valdovinos, Macareno
ABSENT:	none

C. Consider Approving Resolution 2022-004 adopting Mid Year Budget Amendment for Fiscal Year 2021-22

Recommend that the City Council approve Resolution 2022-004 adopting the Mid-Year Budget Amendment for Fiscal Year 2021-22.

Documents: Resolution 2022-004

Director of Finance and Administration Steve Huntley provided updated figures regarding the Mid-Year Budget, along with a PowerPoint presentation for the Council's review and consideration. Mr. Huntley and City Manager Jennifer Gomez responded to questions and comments from the City Council.

Mayor Paul Boyer asked for clarification regarding the new booster pump and electrical panel at the Sports Park. Mayor Boyer would like to hire more consultants to complete park projects.

Council Member Greg Gomez would like to make City of Farmersville residents aware of all the projects completed in Farmersville. Mr. Gomez also expressed concern regarding upcoming plans to fix streets in the City of Farmersville.

Motion to approve as presented.

RESULT:	APPROVED (UNANIMOUS)
MOVER:	Danny Valdovinos, Council Member
SECONDER:	Greg Gomez, Council Member
AYES:	Boyer, Hernandez, Gomez, Valdovinos, Macareno
ABSENT:	none

9. Council Reports:

A. City Council Updates and Committee Reports

Council Member Danny Valdovinos inquired about installing the new Armstrong Park sign. Mr. Valdovinos also requested an update on Roy's Park.

Council Member Greg Gomez stated that he attended the Tulare County Regional Transit Agency meeting. The CTC allocates funds to construct highway, passenger rail, and transit improvements throughout California. Mr. Gomez informed Council that the Local Transportation Fund was approved.

Mayor Paul Boyer inquired about the completion of Farmersville Blvd. Public Works Director Jeff Dowlen responded that the completion date of Farmersville Blvd. should be sometime in May. Mayor Boyer announced that the Memorial Day Parade is in the process of being planned.

Council Member Ruben Macareno would like to know the status of the Deep Creek Canal Improvements. Mr. Macareno also inquired about the Deep Creek Improvement sign. City Manager Jennifer Gomez stated that the Deep Creek project is complete. The completed work included clearing, grading creek bottom and banks, and some irrigation. Ms. Gomez explained that per the grant agreement, the Deep Creek Improvement sign may need to stay up for a certain amount of time and that she would look into that requirement.

10. Staff Communications:

City Clerk Rochelle Giovani reminded Council that Form 700's are due. Ms. Giovani also let Council know that Ethics Training is due at the end of March.

Director of Finance and Administration Steve Huntley informed the Council Members that the Utility Department is currently processing residential payment plans for delinquent utility bills. Mr. Huntley reported to Council that there are 130 residents on the shut-off list, which will take place in April.

11. Future Agenda Items:

1. Update and Discussion on Homelessness Issues in Farmersville
2. Discussion on crosswalk in the vicinity of Visalia Rd./Ventura Ave.

12. Adjourn to Closed Session:

Mayor Boyer adjourned the meeting at 8:05pm.

A. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: 600 S. Avery

Agency Negotiators: Jennifer Gomez and Michael Schulte

Negotiating Parties: County of Tulare

Under Negotiation: Terms and Price

13. Reconvene to Open Session:

Mayor Boyer reconvened at 8:11pm with nothing to report

14. Closed Session Report (if any):

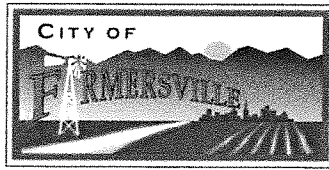
15. Adjournment:

Mayor Boyer adjourned meeting at 8:11pm.

Respectfully submitted,

Rochelle Giovani
City Clerk

Strong Roots.....Growing Possibilities



City Council

Staff Report 7B

TO: Honorable Mayor and Members of the Farmersville City Council

FROM: Jennifer Gomez, City Manager

DATE: March 14, 2022

RE: Waive the Second Reading and adopt Ordinance 514 approving a zone change for the site from CC (Central Commercial) to CG (General Commercial) - Lakhani

RECOMMENDED ACTION:

Recommend that the City Council waive the second reading and adopt Ordinance 514 approving a zone change for the site from CC (Central Commercial) to CG (General Commercial) – Lakhani.

BACKGROUND:

Ordinance 514 was introduced and the first reading waived at the February 28th City Council meeting. A public hearing was held and no comments were given. Resolution 2022-005 was adopted by the City Council approving a General Plan Amendment and adopting a Notice of Exemption as the environmental finding.

The applicant (who also owns the adjacent convenience store/gas station) is requesting approval to rezone and redesignate the 8,370-square foot vacant parcel immediately adjacent to the north (see Maps 1 and 2). The ultimate purpose is to allow for construction of a vehicle connection to Farmersville Boulevard, so that motorists traveling south along the Boulevard can turn directly into the convenience store parking lot.

Currently the parcel is zoned CC (Central Commercial). The purpose of the CC zone is to create a downtown environment, through the careful arrangement of buildings and parking lots – to help create a pedestrian-oriented downtown shopping and dining environment. The CC zone requires new buildings to be set on the front of the site with parking to the rear. This requirement would not allow for development of the subject parcel with only a parking lot. A case can be made for allowing the zone change (and General Plan Amendment) – which would allow for expansion of the convenience store's parking and vehicular access to Farmersville Boulevard.

Since the CC zone was applied to this site nearly 20 years ago, the City has received several requests for development of this parcel that would not comply with the CC zone's standards. On the other hand, there has been little interest (expressed to the City) in development consistent with CC zone requirements (that is, having a new building on the front of the lot and parking to the rear).

If the zone change is approved the applicant will be required to submit an application to install the new parking/access area improvements. Any such improvements will be required to include paving and landscaping and provide for proper storm water drainage.

Attachment(s):

Ordinance 514

ORDINANCE NO. 514

AN ORDINANCE OF THE CITY OF FARMERSVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, AMENDING ORDINANCE NO. 319 (AS AMENDED) OF THE CITY OF FARMERSVILLE, RELATING TO THE CLASSIFICATION OF THE ZONE OF A PARTICULAR PARCEL OF REAL PROPERTY.

The City Council of the City of Farmersville does ordain as follows:

SECTION 1. Sections 17.12.020 and 17.12.030 of the Municipal Code of the City of Farmersville, are amended by changing the Zoning Map for a 8,370± square foot parcel of property located on the west side of Farmersville Boulevard north of Visalia Road. (Assessor Parcel Number 128-073-017 as shown on Map 1.

SECTION 2. Severability. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed the remainder of this Ordinance, as if such invalid portion thereof had been deleted.

SECTION 3. This ordinance shall take effect thirty (30) days after its passage.

SECTION 4. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance and to cause the same to be published once in a newspaper of general circulation, published in the County of Tulare.

I hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Farmersville held on the 28th day of February, 2022 passed and adopted at a Regular meeting of the City Council held on the ____ day of March, 2022, by the following vote:

AYES: _____

NOES: _____

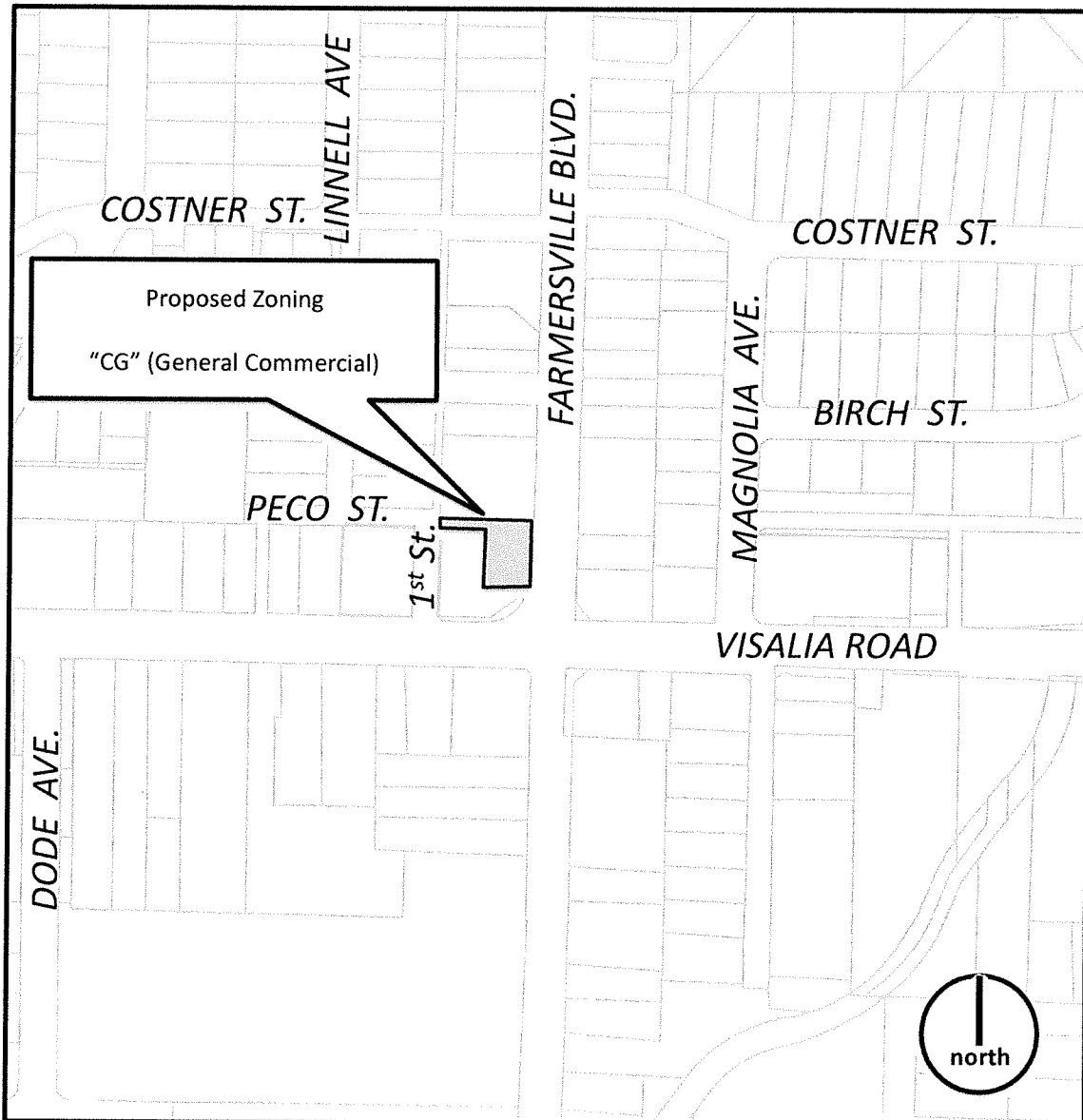
ABSTAIN: _____

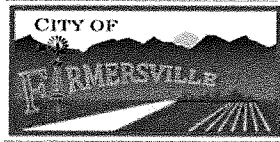
ABSENT: _____

Tina Hernandez, Mayor Pro Tem
City of Farmersville

Rochelle Giovani, City Clerk
City of Farmersville

Map 1: Proposed Zoning





City Council

Staff Report 8A

TO: Honorable Mayor and City Council

FROM: Kevin Gross, City Engineer

DATE: March 14, 2022

SUBJECT: Ventura Ave Crosswalk Study at Visalia Road

RECOMMENDED ACTION:

That the City Council review this staff report discussing the potential crosswalk at Ventura Avenue and Visalia Rd and explore the factors to consider when installing striped crosswalks including pedestrian benefits, risk management, improvement expenses and potential traffic impacts.

BACKGROUND:

An existing study was performed by QK back on July 8, 2019, where alternative crosswalk improvements were presented on Visalia Road. It was recommended by the City Engineer that the alternative of No Project was the best option. This was due to the potential risks that are associated with crosswalks at free-flowing intersections. Council has requested to revisit this scenario for a potential crosswalk at Ventura Ave.

DISCUSSION:

The marked crosswalk can be useful for channelizing pedestrians and helping them find their way across large complex intersections. Marked crosswalks are installed at most signalized intersections where traffic comes to a complete stop, however at free-flowing intersections, crosswalks can potentially create increased risk for pedestrians crossing the street.

Marked crosswalks are widely classified as "safety devices" and most jurisdictions give the pedestrian the right-of-way when within them. But there is strong evidence that these facts prompt many pedestrians to feel overly secure when using a marked crosswalk – to the degree that they may aggressively place themselves in a hazardous position with respect to on coming vehicles.

At unmarked crosswalks, pedestrians generally feel less secure and less certain that the vehicle will stop – and exercises more caution in waiting for safe gaps in traffic before crossing. **The end result is fewer accidents at unmarked crosswalks.**

Adding additional features to crosswalks such as overhead lighting, rumble strips and flashing beacons can increase the safety of a crosswalk, however, it decreases traffic flow and lowers the level of service of the roadway, as well as increases maintenance cost in the area.

Recommendation:

In order to determine if a marked crosswalk is warranted at Visalia Rd and Ventura Ave, an updated speed survey will be necessary for gathering the latest traffic data in the area. This survey will consider vehicle and pedestrian traffic, history of accidents and fatalities and recommendations for improvements in the area. Once complete, the determination if a crosswalk is warranted at the proposed location will be accomplished and documented.

The process can be coordinated and executed by QK and can be completed within the next 2-3 months if approved by council.

COORDINATION & REVIEW:

The Visalia Rd and Ventura Ave Crosswalk Discussion have been reviewed and coordinated with the City Manager, Public Works Director, and City Engineer.

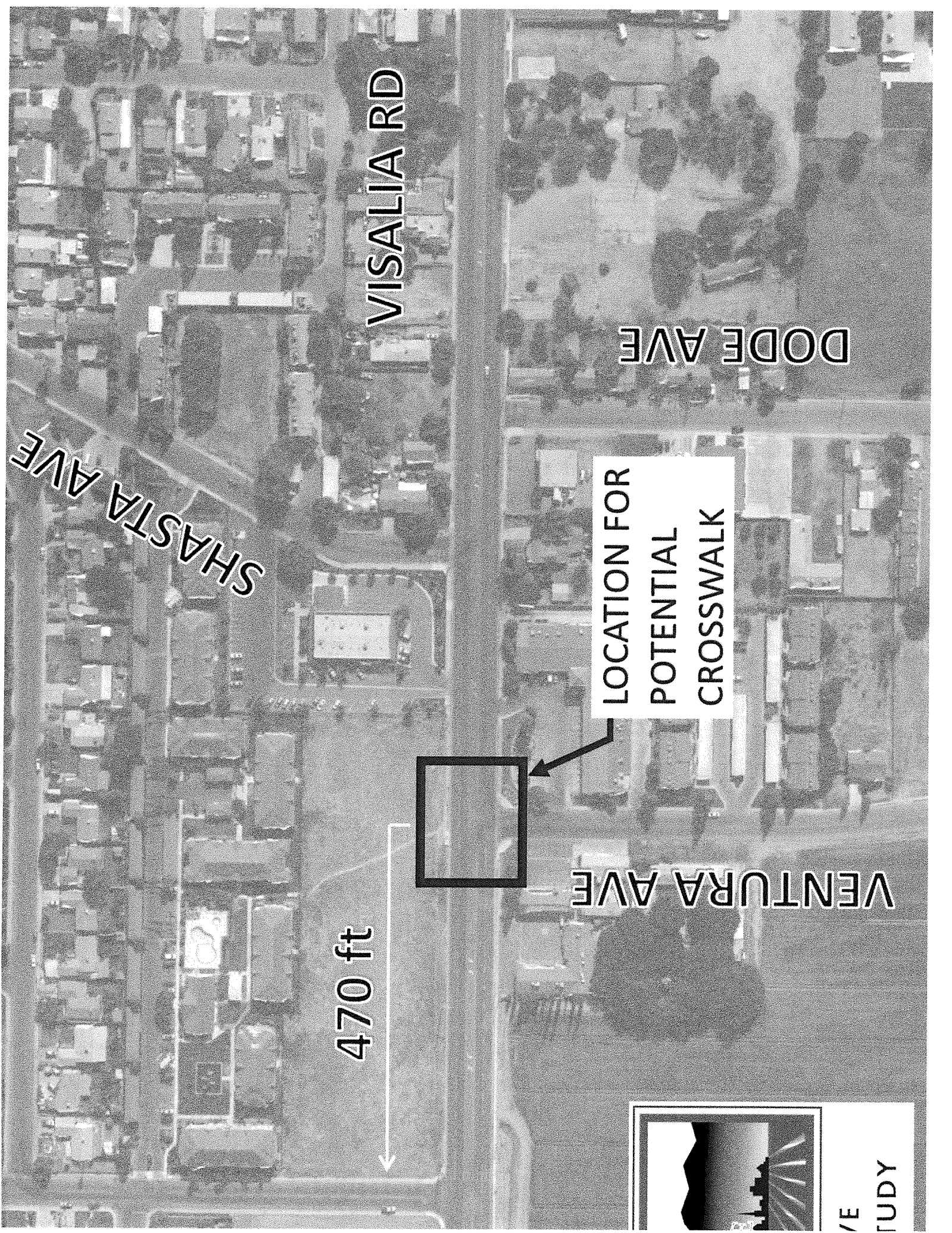
FISCAL IMPACT:

There are minor immediate costs for speed surveys and additional potential costs if the implementation of a crosswalk is executed in the future.

CONCLUSION:

That the City Council review the attached Site Map and provide direction to staff on planning speed surveys within the project area.

Attachment(s): Exhibit 1 – Map of Ventura Avenue and Visalia Road



VISALIA RD

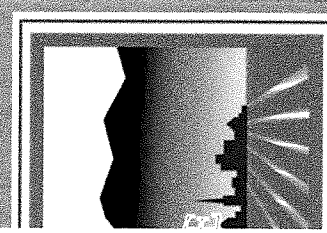
DODE AVE

SHASTA AVE

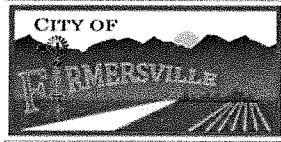
LOCATION FOR
POTENTIAL
CROSSWALK

VENTURA AVE

470 ft



STUDY



City Council

Staff Report 8B

TO: Honorable Mayor and City Council

FROM: Jennifer Gomez, City Manager

DATE: March 14, 2022

SUBJECT: Project Development Agreement with Johnson Controls in the amount of \$40,000 to Develop a Solar Energy Generation Project and Provide Grant Writing Services

RECOMMENDED ACTION:

It is recommended that the City Council approve the Project Development Agreement with Johnson Controls in the amount of \$40,000 subject to City Attorney review.

BACKGROUND and DISCUSSION:

One of the priorities of the City Council is to construct a solar plant at the Wastewater Treatment Plant to help offset the costs of operating the facility. Now that the plant has been in operation for a full year, a consultant will be able to use the utility usage data to determine the scope of a solar project.

Pursuant to Government Code 4217, the City may choose a consultant to conduct work pertaining to a solar project without receiving competitive bids. Therefore, for this phase, staff is utilizing this Government Code in order to move forward as quickly as possible, and the scope of work is very limited. If and when grant funding has been acquired for the solar project, the City will issue a Request for Qualifications to incorporate a competitive selection process for the design + build phase.

In recent months, the City Engineer and City staff have been working with Johnson Controls to identify the scope of services and deliverables needed under this project development agreement. The consultant will provide cost and savings estimates for a Wastewater Treatment Plant Solar PV and Battery Energy Storage for the Wastewater Treatment Plant; develop up to 30% design for the project; and provide grant writing services to assist in the grant application process for a Clean Water State Revolving Fund grant with the California Water Board to fund the design and construction phase of the solar project.

The proposed agreement has not been submitted to the City Attorney for review, so staff recommends that the Council approve the agreement subject to any revisions and approval by the City Attorney.

FISCAL IMPACT:

Developing a scope for a solar project at the Wastewater Treatment Plant was budgeted by the City Council for this fiscal year and the proposed fee is within that amount.

ATTACHMENT(S):

Project Development Agreement

**PROJECT DEVELOPMENT AGREEMENT
BETWEEN**

**City of Farmersville
909 Visalia Rd.
Farmersville, CA 93223**

AND

**Johnson Controls
3451 West Ashlan Ave.
Fresno, CA 93722**

The purpose of this Project Development Agreement ("PDA") is to confirm the intent of the City of Farmersville ("Customer") to employ Johnson Controls ("JCI") to develop a solar energy generation project and to assist in the grant application process for a Clean Water State Revolving Fund ("CWSRF") Grant. This PDA will provide the basis of the scope, schedule, and deliverables of the PDA as well as the obligations of both parties, and the financial criteria representing the intended outcome of the project.

1. Scope of Services

The scope of services of this PDA shall include:

- a. Project development, including engineering, cost and savings estimates, for the following facility Improvement measures (FIMs):
 - i. Wastewater Treatment Plant Solar PV
 - ii. Battery Energy Storage for the Wastewater Treatment Plant
- b. JCI will provide the following additional services associated with these FIMs:
 - i. Up to 30% design for the project FIM's
 - ii. Project financial analysis
- c. JCI will provide additional services associated with CWSRF grant application:
 - i. Grant writing services
 - ii. Technical assistance as required by the CA Water Board for initial submission

2. Deliverables

At the completion of services provided under this Agreement, Johnson Controls shall deliver the following ("Deliverables"):

- a. Initial Grant application submitted to the CA Water Board
- b. Up to 30% design for project FIM's as required for initial CWSRF Gant submission
- c. Preliminary project budgets and savings estimates

3. Schedule

It is the intent and commitment of all parties identified in this Agreement, to work diligently and cause others under their direction, to work diligently toward meeting the following timeline:

- | | |
|------------------|---|
| • March 14, 2022 | City to Approve PDA |
| • March 28, 2022 | Project Site Visits and Engineering Commences |
| • TBD | Initial CWSRF Grant Application Submission |

These timeframes may be modified by subsequent work plans approved by all parties.

4. Price and Payment Terms

The Customer agrees to pay JCI a total of **\$40,000** for the scope and deliverables outlined in this PDA. JCI will send the Customer monthly invoices based off work completed and costs incurred to date.

5. Records and Data

To enable JCI to fulfill its obligations, Customer will furnish to JCI all data, documents, and authorizations requested that are pertinent to the scope of work. JCI will provide a separate document requesting the information and Customer shall make every effort to provide that information within a reasonable time. If the requested information is not provided in a timely manner then JCI shall be allowed to modify the schedule in this agreement.

6. Indemnity

Johnson Controls and Customer agree that the parties shall each be responsible only for such injury, loss, or damage caused by the intentional misconduct or the negligent act or omission of the parties, their officers, agents, directors, and employees. To the extent permitted by law, Johnson Controls and Customer agree to indemnify and to hold each other, including their officers, agents, directors, and employees, harmless from all claims, demands, or suits of any kind, including all legal costs and attorney's fees, resulting from the intentional misconduct of their officers, agents or employees or any negligent act or omission by their officers, employees or agents.

7. Disputes

If a dispute arises under this Agreement, the parties shall promptly attempt in good faith to resolve the dispute by negotiation. All disputes not resolved by negotiation may be resolved in accordance with the Commercial Rules of the American Arbitration Association in effect at the time, except as modified herein, if the parties elect to at the time the dispute arises. In that event, all disputes shall be decided by a single arbitrator. A decision shall be rendered by the arbitrator no later than nine months after the demand for arbitration is filed, and the arbitrator shall state in writing the factual and legal basis for the award. The arbitrator shall issue a scheduling order that shall not be modified except by the mutual agreement of the parties. Judgment may be entered upon the award in the highest State or Federal court having jurisdiction over the matter. The prevailing party shall recover all costs, including attorney's fees, incurred as a result of this dispute.

8. Confidentiality

This agreement creates a confidential relationship between JCI and Customer. Both parties acknowledge that while performing this Agreement, each will have access to confidential information, including, but not limited to, systems, services or planned services, suppliers, data, financial information, computer software, processes, methods, knowledge, ideas, marketing promotions, current or planned activities, research, development, and other information relating to the other party ("Proprietary Information"). Except as authorized in writing, both parties agree to keep all Proprietary Information confidential. JCI may only make copies of Proprietary Information necessary for performing its services. Upon cessation of services, termination, or expiration of this Agreement, or upon either party's request, whichever is earlier, both parties will return all such information and all documents, data and other materials in their control that contain or relate to such Proprietary Information.

JCI and City understand that this is a confidential project and agree to keep and maintain confidentiality regarding its undertaking of this project. JCI shall coordinate its services only through the designated Customer representative and shall provide information regarding this project to only those persons approved by Customer. JCI will be notified in writing of any changes in the designated Customer representative.

Notwithstanding the foregoing confidentiality provisions, JCI acknowledges that the City is a California municipality and is subject to the California Public Records Act as found under the California Government Code Section 6250 et

seq. City shall provide JCI no less than six (6) days' prior written notice of City's intent to disclose any of JCI's Proprietary Information pursuant to a request for disclosure and/or copying under the California Public Records Act. If JCI disagrees with City's decision to disclose JCI's Proprietary Information, JCI will respond in writing within forty-eight (48) hours of receipt of such written notice from the City informing the City of JCI's course of action including, but not limited to, seeking a protective order. If JCI fails to initiate seeking a protective order within two days of City's receipt of JCI's notification to City, City shall be permitted to comply with the demand to disclose the Proprietary Information. If JCI does initiate seeking such a protective order, the City shall cooperate with, and shall not oppose, JCI in obtaining such protective order, provided, however, that JCI agrees to assume all out-of-pocket legal costs related to the matter incurred by the City including, but not limited to, any reasonable attorney's fees. So long as the City complies with the provisions of notification set forth in this section, the City shall not be liable for, and JCI hereby releases City from, any liability for any damages arising from any release of Proprietary Information to a requestor of such information, and such release includes the representation of the City.

9. Miscellaneous Provisions

This Agreement cannot be assigned by either party without the prior written consent of the other party. This Agreement is the entire Agreement between JCI and the Customer and supersedes any prior oral understandings, written agreements, proposals, or other communications between JCI and the Customer. Any change or modification to this Agreement will not be effective unless made in writing. This written instrument must specifically indicate that it is an amendment, change, or modification to this Agreement.

This Agreement and all matters arising out of or relating to it shall be governed by and construed in accordance with the laws of the State of California. The parties hereby irrevocably consent to the jurisdiction of the state courts located in Fresno County, California, in any action arising out of or relating to this Agreement, and waive any other venue to which either party might be entitled by domicile or otherwise.

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reimbursement for all out-of-pocket costs and expenses, including without limitation, reasonable attorney's fees.

If any provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining provisions of this Agreement remain in full force and effect and are not affected or impaired in any way.

This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency, employment, or fiduciary relationship or partnership between the parties or to impose any such obligation or liability upon either party. Neither party shall have any right, power of authority to enter into any agreement or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other party.

Without limiting the generality of the foregoing paragraph, neither this Agreement, nor any duties or obligations under this Agreement, nor the intentions or expectations of either party shall create an employment relationship between City and JCI for any purpose. JCI shall perform its obligations under this Agreement as an independent contractor and not as an employee of the City. JCI shall have no power or authority by this Agreement to bind the City in any respect. Nothing in this Agreement shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by JCI are employees, agents, contractors or subcontractors of JCI and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against JCI by any such employees, agents, contractors or subcontractors, or any other person, resulting from performance of this Agreement.

This Agreement does not and is not intended to confer any rights or remedies upon any party other than the parties to this Agreement.

This Agreement shall be construed as to its fair meaning and not strictly for or against either party. The headings hereof are descriptive only and not to be construed in interpreting the provisions hereof.

All notices required or permitted under this Agreement shall be in writing and shall be deemed given on the date sent if delivered by hand or by email with an attachment in a portable document format (.pdf) or similar file format, on the next business day if sent by overnight courier, or on the third business day if sent by United States mail, postage prepaid, to each party at its address shown on Page 1 of this Agreement (or at such other address as a party may specify by notice under this section).

This document represents the business intent of both parties and should be executed by the parties who would ultimately be signatory to a final agreement.

Johnson Controls, Inc.

By: Russell Garcia

Signature: _____

Title: Area General Manager, California

Date: _____

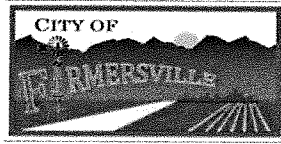
City of Farmersville

By: Jennifer Gomez

Signature: _____

Title: City Manager

Date: _____



City Council

Staff Report 8C

TO: Honorable Mayor and City Council
FROM: Jennifer Gomez, City Manager
DATE: March 14, 2022
SUBJECT: AB 361 and Teleconferenced Meetings

RECOMMENDED ACTION:

Provide findings and direction regarding AB 361 related to teleconference meetings.

BACKGROUND and DISCUSSION:

On September 16, 2021, Governor Newsom signed Assembly Bill 361 amending the Brown Act to allow local legislative bodies to continue using teleconferencing and virtual meeting technology as long as there is a "proclaimed state of emergency" by the Governor. This allowance also depends on local officials finding that meeting in person would present an imminent safety risk to attendees. AB 361 would apply to any proclaimed emergencies such as earthquakes, floods, and wildfires in addition to the current pandemic.

Pursuant to AB 361 if public comment is disrupted due to technical difficulties, then the legislative body may not take any vote or other official action until the technical disruption is corrected and public access is restored.

Additionally, AB 361 requires the legislative body to make findings by majority vote every 30 days that a state of emergency exists and continues to directly impact the ability of the members to promote social distancing. The City Council voted and directed staff on October 11, 2021, to comply with AB 361 based on their findings that there is still a risk to the health and safety of attendees. To continue holding teleconference meetings, the City Council must make these same findings every 30 days or decide to return to in-person meetings. Staff respectfully requests findings by the City Council and direction at this time.

ATTACHMENT(S):

AB 361

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:

89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.